

2005 DRAFTING REQUEST

Bill

Received: **06/23/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Tricia**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - crimes agnst kids**
Criminal Law - sex offenses

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**
cathlene.hanaman@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Sexual assault of a child by a person responsible for children's programs

Instructions:

Class H felony if offender works or volunteers in a position of the type described in s. 948.13 (2) (a)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 07/14/2005	wjackson 07/18/2005		_____			S&L Crime
/1			chaugen 07/18/2005	_____	sbasford 07/18/2005		S&L Crime
/2	mdsida 08/09/2005 mbarman	wjackson 08/11/2005	rschluet 08/11/2005	_____ _____	lemery 08/11/2005 mbarman	mbarman 09/26/2005	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	09/13/2005			_____	09/13/2005		

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09/13/2005

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re-submitted
via e-mail
↳ requested
by Tricia

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/?	mdsida	1 wj 7/18	ch 7-18	ch 7-18 SF			

FE Sent For:

<END>

F. JAMES SENSENBRENNER, JR.
FIFTH DISTRICT, WISCONSIN
COMMITTEE ON THE JUDICIARY,
CHAIRMAN



Congress of the United States
House of Representatives
Washington, DC 20515-4905

WASHINGTON OFFICE:

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202-225-5101

DISTRICT OFFICE:

120 BISHOPS WAY, ROOM 154
BROOKFIELD, WI 53005-6294
262-784-1111

OUTSIDE MILWAUKEE METRO
CALLING AREA
1-800-242-1119

June 17, 2005

Miss Nicole Thompson
13320 West Dakota St.
New Berlin, WI 53151

Dear Miss Thompson:

Thank you for contacting me concerning sexual assault in high school. As Chairman of the House Judiciary Committee, I have been a staunch advocate of legislation that protects children from predators and strengthens criminal penalties for those who commit child abuse and molestation. I played an active role in the passage of S. 151, the "Protect Act," which the President signed into law on April 30, 2003. This legislation takes significant steps to prevent, investigate, and prosecute crimes against children, including sexual abuse.

The Protect Act institutes tougher laws against sexual abuse, particularly for those who prey on children. For example, it extends the statute of limitations for child abduction and sex crimes for the life of the victim to ensure that the perpetrators do not escape justice. In addition, the bill prohibits judges from granting sentences below the Federal Sentencing Guidelines range unless specifically enumerated by the Sentencing Commission. Additionally, the Protect Act combats the problem of recidivism among sex offenders. The bill allows judges to sentence sex offenders to lifetime supervision once they are released. It also requires a mandatory sentence of life imprisonment for twice-convicted child sex offenders. Another provision denies pretrial release for child rapists or abductors. Lastly, the bill authorizes funding for a Sex Offender Apprehension Program, which allows money to be used by local law enforcement to track down sex offenders who violate terms of their release. These provisions make the Protect Act one of the most comprehensive pieces of legislation designed to combat sexual abuse signed into law.

Unfortunately, the issue you wrote to me about deals with state statutes. I would like to refer you to your two representatives in the state legislature. Your Senator is Mary Lazich and she can be reached at 608-266-5400 and your State Representative is Mark Gundrum and he can be reached at 608-267-5158. I have taken the liberty of forwarding your correspondence to Senator Lazich and Representative Gundrum.

I regret any inconvenience this may have caused. Should you have any further questions, I would advise you to contact Senator Lazich's or Representative Gundrum's offices directly.

Sincerely,

A handwritten signature, appearing to be "FJS", written in dark ink.

F. JAMES SENSENBRENNER, JR.,
Member of Congress

FJS/mrs

Cc: Senator Lazich, Representative Gundrum

Nicole Thompson
13320 West Dakota Street
New Berlin, WI 53151
(262) 786 - 4786
nic_nat03@hotmail.com

June 3, 2005

Dear U.S. Representative Congressman F. James Sensenbrenner, Jr.

My name is Nicole Thompson and I am 17 years old. I am contacting you about a current statute that needs to change.

When I was 16 years old from January 2004 - July 2004 I was the victim of sexual assault by my swim coach who was 45 years old at the time. In my case, my coach pleaded guilty to two misdemeanor counts of fourth degree sexual assault. He was sentenced on May 16, 2005 to 9 months in the House of Correction, having work release privileges. If this person was a school teacher or personal, it would automatically be a felony-why is that?

The current statute 948.095 "Sexual Assault of a Student by a School Instructional Staff Person" is limited to school personal. This law states that any sexual acts between a teacher and student are considered a felony. I would like to see this include independent and club related coaches and assistant coaches. Any sexual act between a coach and athlete should be a felony as well.

Coaches have the potential to spend more time with an athlete than a teacher. Competitive athletes can have the same coach year round for numerous years, making coaches more of a threat than teachers.

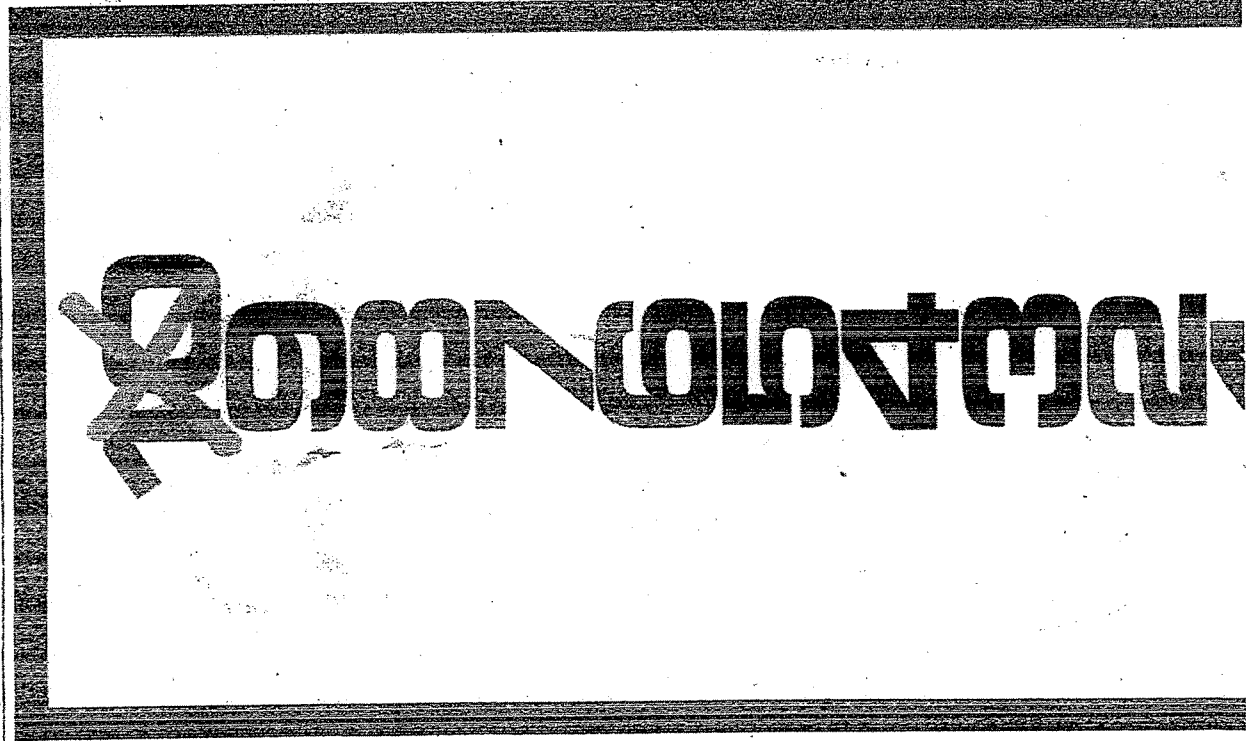
I ask that you please consider this change in law. There is a need for this change. Too many young athletes are getting sexually assaulted by their coaches and most are not reported.

Please contact me and help guide me on what I need to do to make this a new law.

Sincerely,



Nicole Thompson



West Allis man found guilty of misdemeanor sexual assault

He coached New Berlin Swim Club; girl's mom wanted felony charges

By Denise Lockwood
Staff Writer

A West Allis man who coached the New Berlin Swim Club pleaded guilty to two misdemeanor counts of sexually assaulting a 16-year-old New Berlin girl May 16.

Alan Rogers was sentenced to nine months in the House of Corrections with work release privileges and three years probation by Milwaukee County Circuit Court Judge David Hansher.

Rogers, 46, had been coaching the girl, a member of the swim club, for almost three years before he started a romantic relationship with her in January 2004. Rogers gave the girl gifts, sent her love notes, befriended the girl's family and attended counseling sessions with her. Rogers had intimate sexual contact with the girl for eight months, according to Ed Benish, detective with the West Allis Police Department.

The case was tried in Milwaukee County because the New Berlin Swim Club rents the pool at the West Allis Central High School. Because the New Berlin Swim Club is an independent swimming team not affiliated with any school and the girl was 16 years old at the time of the abuse, the case was tried as a misdemeanor and not a felony.

If teachers or coaches affiliated with a school are arrested for sexual misconduct, the charge is automatically a felony, Benish said.

"I think it's unfair that because he was not a teacher and my daughter was 16 when this happened, that it would have been charged differently," the girl's mother said, adding she wants to see the law changed to include coaches not affiliated with schools under the same umbrella as teachers. "I want to try to get the law changed so this doesn't happen to any other young girls. My daughter, however, will always be a victim ... I have nothing but hatred towards that man." Benish said Assistant District Attorney Gail Shelton asked him if he would offer his

knowledge of this case to help change the law and he said he would.

"This makes sense to me and I think it needs to be changed," Benish said.

Rogers coached several other swim teams over a 20-year period including the Greenfield Otters in the early 1980s and the Lake Country Arrowhead High School in Waukesha before coming to the New Berlin Swim Club in 1993.

One other case of sexual abuse from Waukesha was read into the West Allis case, but was not prosecuted. Three other girls have come forward, but the alleged abuse occurred years ago and the statute of limitations has run out, Benish said.

"I'm very disappointed in Alan. He manipulated these girls. He promised one girl a car. He sent love letters. He's a typical predator," Benish said.

Rogers was also ordered not to have any voluntary or paid work which involves working directly with juveniles in a coaching, mentoring or teaching capacity. He also has to undergo sexual offender treatment.

2005 BILL

with whom the
person works or
interacts through
that occupation or
volunteer position

receives services from that
person's employer or
that volunteer through

- 1 **AN ACT** *Regen* **to amend** 948.095 (title); and **to create** 948.095 (3) of the statutes;
- 2 **relating to:** sexual contact or sexual intercourse involving a 16- or
- 3 17-year-old athlete and a coach and providing a penalty.

person who works with him or her and other children

Analysis by the Legislative Reference Bureau

Current law contains two prohibitions relating to engaging in sexual activity with a 16- or 17-year-old. First, if a school or school board employee or any other person who provides services to a school or a school board has sexual contact or sexual intercourse with a 16- or 17-year-old who is enrolled in that school or school district, the person is guilty of a Class H felony and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, consists of a term of confinement followed by a term of extended supervision) or both. Second, any person who has sexual intercourse with a 16- or 17-year-old is guilty of a Class A misdemeanor and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to nine months or both.

This bill prohibits a person who coaches, instructs, manages, or supervises participants in an organized athletic program from having sexual contact or sexual intercourse with a 16- or 17-year-old who participates in that program.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

INS A

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 948.095 (title) of the statutes is amended to read:

2 **948.095 (title) Sexual assault of a student child by a school instructional**
3 **staff person or a coach.** ~~INS 2/3~~ ~~INS 1~~ 2/5

4 **SECTION 2.** 948.095 (3) of the statutes is created to read:

5 948.095 (3)^(a) A person who coaches, instructs, manages, or supervises
6 participants in an organized athletic program may not have sexual contact or sexual
7 intercourse with a child who has attained the age of 16 years, who is not the person's
8 spouse, and who participates in that program. Whoever violates this prohibition is
9 guilty of a Class H felony. ~~91(b)~~ ~~para(a)~~

10 (END)

INS 2/9

INS 2/8

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3247/lins
MGD:.....

1 **analysis INSERT**

~~Not~~ engages in an occupation or participates in a volunteer position that requires him or her to work or interact primarily and directly with children (other than through a school)

2 **INSERT 2/3**

3 ~~Not~~ **person who works or volunteers with children**

4 **INSERT 2/5**

5 ~~Not~~ engages in an occupation or participates in a volunteer position that requires
6 him or her to work or interact primarily and directly with children

7 **INSERT 2/8**

8 ~~Not~~ with whom the person works or interacts through that occupation or volunteer
9 position

10 **INSERT 2/9**

11 (c) Paragraph (a) does not apply to an offense to which sub. (2) applies. ✓

12 (d) Section 948.13 (3) applies to an action brought under this subsection. ✓



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3247/L-2
MGD:wlj:ch

2005 BILL

Other

Regen

1 AN ACT *to amend* 948.095 (title); and *to create* 948.095 (3) of the statutes;
2 relating to: sexual contact or sexual intercourse involving a 16- or
3 17-year-old and a person who works ^{or interacts} with him or her and other children and
4 providing a penalty.

through the person's
occupation or a volunteer position

Analysis by the Legislative Reference Bureau

Current law contains two prohibitions relating to engaging in sexual activity with a 16- or 17-year-old. First, if a school or school board employee or any other person who provides services to a school or a school board has sexual contact or sexual intercourse with a 16- or 17-year-old who is enrolled in that school or school district, the person is guilty of a Class H felony and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, consists of a term of confinement followed by a term of extended supervision) or both. Second, any person who has sexual intercourse with a 16- or 17-year-old is guilty of a Class A misdemeanor and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to nine months or both.

This bill prohibits a person who engages in an occupation or participates in a volunteer position that requires him or her to work or interact primarily and directly with children (other than through a school) from having sexual contact or sexual intercourse with a 16- or 17-year-old.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

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BILL

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 948.095 (title) of the statutes is amended to read:

948.095 (title) Sexual assault of a student child by a school instructional staff person or a person who works or volunteers with children.

SECTION 2. 948.095 (3) of the statutes is created to read:

948.095 (3) (a) A person who engages in an occupation or participates in a volunteer position that requires him or her to work or interact primarily and directly with children may not have sexual contact or sexual intercourse with a child who has attained the age of 16 years, who is not the person's spouse, and with whom the person works or interacts through that occupation or volunteer position.

(b) Whoever violates par. (a) is guilty of a Class H felony.

(c) Paragraph (a) does not apply to an offense to which sub. (2) applies.

(d) Section 948.13 (3) applies to an action brought under this subsection.

(END)

INS 2/13

INS 2/13

94843(3)

(3) Evidence that a person engages in an occupation or participates in a volunteer position relating to any of the following is prima facie evidence that the occupation or position requires him or her to work or interact primarily and directly with children under 16 years of age: teaching children, child care, youth counseling, youth organization, coaching children, parks or playground recreation or school bus driving.

Barman, Mike

From: Sieg, Tricia
Sent: Monday, September 26, 2005 4:33 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3247/2 Topic: Sexual assault of a child by a person responsible for children's programs

It has been requested by <Sieg, Tricia> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-3247/2 Topic: Sexual assault of a child by a person responsible for children's programs